

Minutes of the Regular Meeting of the Ankeny City Council

Monday, November 1, 2010 – 5:30 P.M.

Ankeny City Hall – City Council Chambers

410 W. First Street, Ankeny, Iowa

Steven D. Van Oort, Mayor

Dave Kissinger, Mayor Pro tem

Council Members: Craig Block, Wade Steenhoek, Tom Strait, Gary L. Welch

Mayor Van Oort called the meeting to order at 5:30 p.m. All Council members were present. Acting City Manager, Dick Ash, and City Attorney, Amy Beattie, were present.

Mayor Van Oort led the Pledge of Allegiance.

CEREMONY:

- **SPECIAL PRESENTATION:**

Mayor Van Oort recognized representatives of the Park Board and, staff from the parks and recreation department for receiving the ICMA 2010 Voice of the People Awards in two categories: the quality of Ankeny's parks and its national ranking for recreation programs and classes. Van Oort also announced that Ankeny received a Voice of the People Transformation award for its use of citizen surveys to influence service quality.

A. PUBLIC FORUM

Citizen Open Forum:

Mayor Van Oort stated that any comments made this evening that relates to the proposed establishment of a utility franchise fee will not be part of the public record. He stated the public hearing on the proposed establishment of the utility franchise fee is scheduled for November 15th, not this evening, as published by the Des Moines Register.

Mike Grandgeorge, representing the Ankeny Economic Development Corporation (AEDC), and Brad Botos, president of the Ankeny Area Chamber of Commerce Board of Directors, addressed the city council on the proposed utility franchise fee and requested additional time within which to gain more knowledge about the proposed fee and inquired whether the public hearing could be moved to a later date.

Mayor Van Oort stated the request of Mr. Grandgeorge and Mr. Botos to move the public hearing on the proposed utility franchise fee to a later date will be discussed at the time in agenda when that action comes forward.

B. APPROVAL OF AGENDA

ACTION #1. Kissinger made the MOTION to approve and accept the November 1, 2010 agenda, with amendment: deleting Consent Agenda Item CA-40, seconded by Welch.

ROLL CALL

2010-1101.01	YES	5	NO	0
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C. PUBLIC HEARING(S):

- **PH 2010-42:** Proposed Not to Exceed \$3,300,000 Sewer Revenue Bonds, Series 2010E

Mayor Van Oort announced this is the time and place for the public hearing and meeting on the matter of the issuance of not to exceed \$3,300,000 Sewer Revenue Bonds, Series 2010E, in order to provide funds to pay costs of constructing improvements and extensions to the Municipal Sewer Utility of the City, an essential corporate purpose. Notice of this hearing was published in the Des Moines Register on the 22nd day of October, 2010, pursuant to the provisions of Section 384.25 of the Code of Iowa.

Jennifer Sease, City of Ankeny Finance Director, stated the action before council is for the issuance of not to exceed \$3.3 million sewer revenue bonds which will be used to pay costs for three projects; the NE 54th Street Sanitary Sewer Extension Project, currently in the construction process; the NE Sanitary Sewer Improvements Project; and the SE Sanitary Sewer Area Improvements Project. She stated this will be the first round of funding for the NE and SE Sanitary Sewer Improvement Projects as these are phased projects. Two years from now staff will request council approval for funding for the 2nd phase of these two projects. These sewer revenue bonds will be paid over 20 years of maturity with protected average interest rate of 3.92%. The sale date for these bonds is set for November 15, 2010. Following the public opening of the bids, the bids will be referred to council for action that evening, November 15 at 5:30 p.m.

ACTION #2. There being no written or oral objections, Strait made the motion to close Public hearing 2010-42, seconded by Steenhoek.

ROLL CALL

2010-1101.02	YES	5	NO	0
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Mayor Van Oort stated further consideration and action on this item will take place under "New Business", Agenda Item "K" later in the meeting.

D. REPORTS OF ADVISORY BOARDS AND COMMISSION:

Plan & Zoning Commission Representative, Jean Austen stated the Plan & Zoning Commission meeting scheduled for tomorrow evening, November 2, has been cancelled.

Mayor's Youth Council Representative, Trevor Sawatzky updated the council on the activities of the Youth Council.

E. REPORT OF LOBBYIST: none

F. APPROVAL OF CONSENT AGENDA:

• **Minutes**

- CA-1 Approval of official council actions of the regular meeting of October 18, 2010, as published, subject to correction, as recommended by the City Clerk.
- CA-2 Receive and file minutes of the Plan & Zoning Commission meeting of October 19, 2010, subject to correction, as recommended by the recording secretary.

• **Licenses and Permits:**

- CA-3 Consider motion to approve a Class C Liquor License w/Sunday Sales for Ankeny Lanes, Inc., d/b/a Ankeny Lanes, 106 SW State Street. (renewal)
- CA-4 Consider motion to approve a Class C Beer Permit w/Sunday Sales & Carryout Native Wine for Casey's Marketing Company d/b/a Casey's General Store #2896, 2601 SE Creekview Drive. (new)
- CA-5 Consider motion to approve a Cigarette Permit for Casey's General Store #2896, 2601 SE Creekview Drive. (new)
- CA-6 Consider motion to approve a Class C Liquor License w/Sunday Sales for Bar Partners, Inc., d/b/a Jakes Pub, 605 North Ankeny Blvd. (renewal)
- CA-7 Consider motion to approve a Class C Liquor License w/Sunday Sales for Outback/Midwest-II, Limited Partnership, d/b/a Outback Steakhouse, 2410 SE Tones Drive. (renewal)
- CA-8 Consider motion to approve a Class B Native Wine Permit for Marla Earp d/b/a Treasure House Gifts, 721 North Ankeny Blvd. (new)

• **Finance/Budget**

- CA-9 Consider a motion to adopt RESOLUTION 2010-290, authorizing the certification of liens to the Polk County Treasurer for purposes of assessing delinquent utility account balances against property.
- CA-10 Consider motion to approve Payment #3 in the amount of \$382,985.89 to Alliance Construction Group for construction services on the SW Magazine Road & SW Cherry Street Paving Project - Phase 2.
- CA-11 Consider motion to approve Payment #5 in the amount of \$14,282.50 to Civil Design Advantage for engineering services on the SW Southlawn Area Utility Replacement Project.

- CA-12** Consider motion to approve Payment #14 in the amount of \$26,023.59 to Kirkham Michael and Associates, Inc., for engineering services on the Westwinds Stream Stabilization and Erosion Control Project.
- CA-13** Consider motion to approve Change Order #4 increasing the contract amount by \$16,126.00 to Manatts, Inc., for construction services on the SW Magazine Road & US 69 Intersection Improvements Project.
- CA-14** Consider motion to approve Payment #5 in the amount of \$346,907.32 to Manatts, Inc., for construction services on the SW Magazine Road & US 69 Intersection Improvements Project.
- CA-15** Consider motion to approve Payment #1 in the amount of \$67,610.70 to Manatts, Inc., for construction services on the SW Magazine Road Improvements - SW Cherry Street to SW State Street Project.
- CA-16** Consider motion to approve final Payment #13 in the amount of \$5,879.01.to RDG – SWB for consulting services on the 2003 Comprehensive Plan Update.
- CA-17** Consider motion to approve Payment #6 in the amount of \$16,930.18 to Snyder & Associates, Inc., for engineering services on the Ankeny Traffic Signal System Timings Update Project.
- CA-18** Consider motion to approve Payment #22 in the amount of \$51,504.50 to Snyder & Associates, Inc., for engineering services on the East First Street Interchange Reconstruction Project.
- CA-19** Consider motion to approve Payment #1 in the amount of \$20,014.50 to Snyder & Associates, Inc., for engineering services on the Gay Lea Wilson Trail - Ankeny Segment 1 Project.
- CA-20** Consider motion to approve Payment #15 in the amount of \$10,746.10 to Snyder & Associates, Inc., for engineering services on the I-35 Widening, East First Street Interchange to NE 36th Street Project.
- CA-21** Consider motion to approve Payment #14 in the amount of \$1,812.50 to Snyder & Associates, Inc., for engineering services on the SE Corporate Woods Drive Overpass Project.
- CA-22** Consider motion to approve Payment #6 in the amount of \$645.00 to Snyder & Associates, Inc., for engineering services on the SE Tributary (B) to Fourmile Creek Project.
- CA-23** Consider motion to approve Payment #10 in the amount of \$2,111.00 to Snyder & Associates, Inc., for engineering services on the SW Goodwin Street Utility Improvements and Paving Project.
- CA-24** Consider motion to approve Payment #23 in the amount of \$56,900.38 to Snyder & Associates, Inc., for engineering services on the SW Magazine Road and SW Cherry Street Paving Project.

- CA-25** Consider motion to approve Payment #3 in the amount of \$32,592.22 to TK Concrete, Inc., for construction services on the 2010 PCC Street Patching Program - Phase III.
- CA-26** Consider motion to approve Payment #7 in the amount of \$12,929.50 to Veenstra & Kimm, Inc., for engineering services on the Southeast Area Sewer Improvements Project.
- CA-27** Consider motion to approve Payment #53 in the amount of \$494.54 to Wilson Estes Police Architects for architectural and engineering services on the Police Station Headquarters Building Project.
- CA-28** Consider motion to approve Payment #54 in the amount of \$5,492.21 to Wilson Estes Police Architects for architectural and engineering services on the Police Station Headquarters Building Project.
- CA-29** Consider motion to approve the November 1, 2010 Accounts Payable from the following funds: General \$168,531.37, Hotel Motel Tax \$604.64, Road Use Tax \$33,120.23, Seizure \$510.09, Tax Increment Financing \$5,266.00, Economic Development \$21.07, Dog Park Trust \$39,924.49, Solid Waste \$143.37, Water \$145,604.87, Sewer \$40,290.77, Stormwater \$3,350.48, Golf Course \$25,070.52, Enterprise Projects \$53,689.26, Revolving \$39,573.90, Risk Mgmt \$4,934.06, Health Insurance \$1,320.00, Equipment Reserve \$162,901.00, Capital Projects \$1,012,300.33, Payroll \$817,264.11, Less Service Transfers (\$96.48), Less Agenda Pymts Approved Separately (\$1,055,861.64), Grand Total \$1,498,462.44. (Finance Committee: W. Steenhoek, Chp., D. Kissinger, T. Strait)

- **Personnel Items:** none

- **Community Development Items**

- CA-30** Consider motion to approve the State Street Plaza Plat 1 Neighborhood Plan.

- **Engineering Items:**

- CA-31** Consider motion to adopt RESOLUTION 2010-291, authorizing the issuance of a purchase order to M. C. Lint, Inc., in the amount of \$39,300.00 for construction of Northbrook Sanitary Sewer Erosion Repair.

- CA-32** Consider motion to adopt RESOLUTION 2010-292, authorizing the execution of a Transportation Enhancement Program Project/ Cooperative Public Services Agreement by and between the City of Ankeny, Iowa, and the Iowa Department of Transportation to facilitate the financing and construction associated with the Gay Lea Wilson Trail Extension - Ankeny Segment, Phase 1 Project.

- **Capital Improvement Projects - Final Acceptance:** none

• **Administrative Items:**

- CA-33 Consider motion to adopt RESOLUTION 2010-293, approving the lease of property at 716 SW Third Street to Kevin Beard, d/b/a Kevin Beard Pro Shop and authorizing execution of said property lease.
- CA-34 Consider motion to adopt RESOLUTION 2010-294, authorizing the Mayor to execute a rental contract between the City of Ankeny and the Ankeny Board of Education for the rental of school district facilities for use by the Ankeny Friends of the Arts on November 5 and 6, 2010.
- CA-35 Consider motion to receive and file Financial Report for the Greater Des Moines Convention and Visitors Bureau for year ended June 30, 2010.
- CA-36 Consider motion to adopt RESOLUTION 2010-295, setting a time and place for hearing the City of Ankeny proposed five year Capital Improvements Plan (CIP) for the years 2011 through 2015. (date of hrg: 11/15/10 @ 5:30 p.m.)
- CA-37 Consider motion to adopt RESOLUTION 2010-296, endorsing the submission of a high quality jobs program application to the Iowa Department of Economic Development. (Sysco Iowa)
- CA-38 Consider motion to approve authorization for the issuance of a special permit to Rob Kramme and Mike Higgins for the purpose of a special hunting season within the city limits pursuant to Municipal Code Section 41.11(3).
- CA-39 Consider motion to adopt RESOLUTION 2010-297, adopting a certain supplement prepared by Iowa Codification, Inc., as an official supplement to the 2008 Code of Ordinances.
- CA-40 DELETED

ACTION #3. Welch made the MOTION to approve the recommendations for Consent Agenda Items CA-1 through CA-40, with the deletion of CA-40, seconded by Kissinger.

ROLL CALL

2010-1101.03 YES 5 NO 0

G. SUPPLEMENTAL & REMOVED CONSENT AGENDA ITEMS:

ACTION #4. No action taken.

H. RECESS: none

I. LEGISLATIVE BUSINESS:

- Approval of Ordinances:

Ordinance 1682: An ordinance providing that general property taxes levied and collected each year on all property located within the Northeast Ankeny Urban Renewal Area, in the City of Ankeny, County of Polk, State of Iowa, by and for the benefit of the State of Iowa, City of Ankeny, County of Polk, Ankeny Community School District, Des Moines Area Community College, and other taxing districts, be paid to a special fund for payment of principal and interest on loans, monies advanced to and indebtedness, including bonds issued or to be issued, incurred by the city in connection with the Northeast Ankeny Urban Renewal Development Project.

ACTION #5. Block made the MOTION to accept second consideration of ORDINANCE 1682, seconded by Steenhoek.

ROLL CALL

2010-1101.05	YES	5	NO	0
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ACTION #6. Steenhoek made the MOTION to accept staff recommendation to suspend the rule that ordinances must be considered on three different days and accept third consideration of ORDINANCE 1682, sending it on its final passage and publication as required by law, seconded by Strait.

ROLL CALL

2010-1101.06	YES	5	NO	0
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Ordinance 1683: An ordinance vacating a sanitary sewer easement located along the east side of SW State Street, North of SW Oralabor Road in Prairie Trail.

ACTION #7. Kissinger made the MOTION to accept second consideration of Ordinance 1683, seconded by Steenhoek.

ROLL CALL

2010-1101.07	YES	5	NO	0
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ACTION #8. Welch made the MOTION to accept staff recommendation to suspend the rule that ordinances must be considered on three different days and accept third consideration of ORDINANCE 1683, sending it on its final passage and publication as required by law, seconded by Block.

ROLL CALL

2010-1101.08	YES	5	NO	0
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ACTION #9. Kissinger made the MOTION to adopt RESOLUTION 2010-299, authorizing the sale of real estate vacated by the City of Ankeny to DRA Properties, L.C., seconded by Strait.

ROLL CALL

2010-1101.09	YES	5	NO	0
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ACTION #10.Strait made the motion to adopt RESOLUTION 2010-300, accepting final plat, deed to parkland, and performance bonds for underground improvements, sidewalk and erosion control for State Street Plaza Plat 1, seconded by Welch.

ROLL CALL
2010-1101.10 YES 5 NO 0

ACTION #11.Steenhoek made the motion to adopt RESOLUTION 2010-301, approving plans and specifications and accepting contracts, performance and maintenance bonds for the construction of water main and sanitary sewer in State Street Plaza Plat 1, seconded by Kissinger.

ROLL CALL
2010-1101.11 YES 5 NO 0

Ordinance 1684: An ordinance making revisions to Chapter 55, Animal Protection and Control, and Chapter 56, Dog and Cat Licenses required of the Municipal Code of the City of Ankeny, Iowa.

ACTION #12.Kissinger made the MOTION to accept second consideration of ORDINANCE 1684, seconded by Strait.

ROLL CALL
2010-1101.12 YES 5 NO 0

ACTION #13.Welch made the MOTION to accept staff recommendation to suspend the rule that ordinances must be considered on three different days and accept third consideration of ORDINANCE 1684, sending it on its final passage and publication as required by law, seconded by Block.

ROLL CALL
2010-1101.13 YES 5 NO 0

Ordinance 1685: An ordinance amending Chapter 69, Parking Regulations, of the Municipal Code of the City of Ankeny, Iowa, by amending Section 69.10, No Parking on North and East Sides of Streets, to allow for the change of the "No Parking" zones on:

1. NW 32nd Street from the north side of the street to the south side of the street from NW North Park Drive to NW Ash Drive,
2. NW North Park Drive from the east side of the street to the west side of the street from NW 32nd Street to NW 33rd Street, and
3. SW Twin Gates Drive from the east side of the street to the west side of the street from SW Ankeny Road to SW Olde Ivy Circle.

ACTION #14. Strait made the MOTION to accept first consideration of ORDINANCE 1685, seconded by Kissinger.

ROLL CALL
2010-1101.14 YES 5 NO 0

J. OLD BUSINESS: none

K. NEW BUSINESS:

- Proposed Issuance of Not To Exceed \$3,300,000 Sewer Revenue Bonds, Series 2010E (PH 2010-42)

ACTION #15. Welch made the MOTION to adopt RESOLUTION 2010-302, instituting proceedings to take additional action for the issuance of not to exceed \$3,300,000 Sewer Revenue Bonds, Series 2010E, seconded by Block.

ROLL CALL
2010-1101.15 YES 5 NO 0

ACTION #16. Steenhoek made the MOTION to adopt RESOLUTION 2010-303, directing the advertisement for sale of not to exceed \$3,010,000 (dollar amount subject to change) Sewer Revenue Bonds, Series 2010E and approving electronic bidding procedures, seconded by Kissinger. (date of sale: 11/15/10 @ 11:00 a.m.)

ROLL CALL
2010-1101.16 YES 5 NO 0

ACTION #17. Strait made the MOTION to adopt RESOLUTION 2010-304, approving the preliminary official statement for \$3,010,000 (dollar amount subject to change) Sewer Revenue Bonds, Series 2010E, seconded by Welch.

ROLL CALL
2010-1101.17 YES 5 NO 0

- Proposed Neal Smith Connector Recreational Trail - S. Ankeny Blvd. to SW State St. Professional Services Agreement - Snyder & Associates, Inc.

Mayor inquired how much of the cost for this project is covered by grant money?

Paul Moritz, Public Works Director, stated the preliminary cost estimate for the construction is approximately \$650,000 of which approximately \$495,000 is grant money.

ACTION #18. Kissinger made the MOTION to approve the Professional Services Agreement with Snyder and Associates, Inc., in an amount not to exceed \$106,200.00 for engineering services related to the Neal Smith Connector Recreational Trail and authorize the Mayor to execute said agreement, seconded by Welch.

ROLL CALL

2010-1101.18 YES 5 NO 0

- Proposed Establishment of a Utility Franchise Fee for MidAmerican Energy Co.

Councilor Welch stated in light of citizen comments received he felt it would be appropriate to schedule this public hearing for the first council meeting in December to allow ample opportunity for gaining more information on the proposed franchise fee and then all of the information can be presented at one time on December 6th.

Mayor Van Oort stated he preferred the public hearing be scheduled in November and, if necessary, the hearing not be closed and no action taken on first consideration of the ordinance.

Councilor Block stated if the public hearing is scheduled for December 6th it gives citizens a full month to gather information. It also allows more time for city staff to meet with the representatives of the Chamber and EDIC to gain additional knowledge as it relates to the franchise fee.

Mayor Van Oort stated by voting on Actions #19 and #20 this evening does not mean the city would be enacting a franchise fee but would be putting the process into motion. Approving the revenue purpose statement allows council to set the public hearing on the issue of the proposed franchise fee.

Councilor Steenhoek inquired as to what the implications would be if council delayed setting the hearing by two weeks.

Dick Ash, Acting City Manager, stated there would be no implications if council were to delay setting the public hearing for two weeks. He stated the concept was to get the final reading of the ordinance in place before the end of the year. There would still be sufficient time for the proposed franchise fee to be enacted and for MidAmerican Energy to initiate collection.

Councilor Steenhoek stated if there are no implications in delaying the setting of the public hearing and out of respect for the organizations requesting such he would support delaying the public hearing until December 6th.

Councilor Welch stated he supports the delay in setting the public hearing two weeks as to give time to those interested parties who desire additional knowledge.

Councilor Strait stated he supported delaying the public hearing to December 6th and hearing all of the information at one time.

Councilor Block stated gaining more information on the franchise fee and/or property tax in terms of fiscal impact to businesses and households would be beneficial.

Councilor Kissinger inquired as to whether the combination franchise fee/property tax could be a discussion topic at the November 8th work session.

Mayor Van Oort requested Acting City Manager Dick Ash visit with City Manager Metzger to schedule a time to meet with both the Chamber and Economic Development Industrial Corporation reps to discuss the proposed franchise fee/property tax rate.

Councilor Welch made a motion to approve Action #19.

Councilor Kissinger seconded the motion.

Acting City Manager stated approval of Action #19 moves the process forward to the public hearing.

Councilor Block inquired as to whether the revenue purpose statement can be amended at the public hearing.

City Attorney Amy Beattie stated she didn't believe the code specifically addressed that issue. The code states council has to adopt the revenue purpose statement before the public hearing can be set.

Councilor Block stated he did not see any language in the revenue purpose statement related to property tax relief.

City Attorney Beattie stated if council is going to address property tax relief that does need to be addressed in the revenue purpose statement.

Councilor Block requested Action #19, be moved to the November 15 council agenda.

City Attorney Beattie stated the city would still be able to meet the legal publication requirements if Action #19 and Action #20 were moved to the November 15th agenda.

ACTION #19. Welch made the MOTION to adopt RESOLUTION 2010-305, approving and adopting a revenue purpose statement for the use or expenditure of fee revenues from proposed natural gas and electricity franchise fees, seconded by Kissinger.

Welch rescinded his motion for Action #19.

Kissinger rescinded his second on the motion for Action #19.

ACTION #20. Steenhoek made the MOTION to bring back Action #19 and Action #20 for council consideration on the November 15, 2010 city council agenda, seconded by Strait.

ROLL CALL

2010-1101.20 YES 5 NO 0

L. ADMINISTRATIVE BUSINESS:

- REPORT OF THE CITY STAFF: none

- REPORT OF THE GOVERNING BODY: none

- **CIP Discussion:** none

Future Council Agenda Items:

- ***Council Action Planning Session – Inno-Vision Update – 11-8-10 @ 5:00 p.m.***
 - ***Public Hearing - Five Year Capital Improvements Plan (date of hrg: 11-15-10 @ 5:30 p.m.)***
 - ***Public Hearing – Proposed Establishment of Utility Franchise Fee (date of hrg: 12-06-10 @ 5:30 p.m.)***

M. ADJOURNMENT

ACTION #21. There being no further business, Kissinger made the MOTION to adjourn, seconded by Strait. (6:20 p.m.)

ROLL CALL

2010-1101.21 YES 5 NO 0

Pamela DeMouth, City Clerk

Steven D. Van Oort, Mayor

The context of the above meeting will be submitted for council action at their next regular meeting on November 15, 2010.

Published in the Des Moines Register on the 16th day of November, 2010.